## **United States Department of Labor Employees' Compensation Appeals Board**

R.O., Appellant	_ ) )
and	) Docket No. 21-0923
U.S. POSTAL SERVICE, POST OFFICE, Roosevelt, NY, Employer	) Issued: April 20, 2022 ) ) _ )
Appearances: Alan J. Shapiro, Esq., for the appellant <sup>1</sup> Office of Solicitor, for the Director	Case Submitted on the Record

## ORDER DISMISSING APPEAL

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On May 28, 2021 appellant, through counsel, sought an appeal from a purported April 22, 2021 decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 21-0923.

The Board, having duly considered the matter, notes that the Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act.<sup>2</sup> This jurisdiction encompasses any final adverse decision issued by OWCP within 180 days of the date appellant filed his appeal.<sup>3</sup> The case record as transmitted to the Board does not contain a final adverse decision of OWCP issued within

<sup>&</sup>lt;sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>&</sup>lt;sup>2</sup> 5 U.S.C. § 8101 et seq.; 20 C.F.R. §§ 501.2(c) and 501.3(a).

<sup>&</sup>lt;sup>3</sup> 20 C.F.R. § 501.3(e) provides in pertinent part: "Any notice of appeal must be filed within 180 days from the date of issuance of a decision of the OWCP."

180 days from the date of docketing of the current appeal.<sup>4</sup> In this regard, the Board notes that during the pendency of its appeal from the December 1, 2020 merit OWCP decision under Docket No. 21-0473, OWCP issued an April 22, 2021 decision denying modification of the December 1, 2020 decision. By its decision affirming OWCP's December 1, 2020 merit decision, the Board declared the April 22, 2021 decision null and void, finding that the Board and OWCP may not simultaneously exercise jurisdiction over the same issue(s).<sup>5</sup> Thus, there is no April 22, 2021 decision over which the Board can properly exercise jurisdiction. As such, the Board concludes that the appeal docketed as No. 21-0923 must be dismissed.<sup>6</sup> Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 21-0923 is dismissed.

Issued: April 20, 2022 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

> Janice B. Askin, Judge Employees' Compensation Appeals Board

> Valerie D. Evans-Harrell, Alternate Judge Employees' Compensation Appeals Board

<sup>&</sup>lt;sup>4</sup> *Id*.

<sup>&</sup>lt;sup>5</sup> Docket No. 21-0473 (issued January 31, 2022).

<sup>&</sup>lt;sup>6</sup> The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." 20 C.F.R. § 501.6(d).